



**San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSIONERS**

GAMING COMMISSION
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Monday, August 21, 2006

Penny Coleman
Acting General Counsel
National Indian Gaming Commission
Suite 9100
1441 L Street
NW, Washington DC 20005

Re: Comments on Electronic or Electromechanical Facsimile Definition

Dear Ms. Coleman,

In response to the National Indian Gaming Commission's (NIGC) proposal for the Class II Game Classification, the San Manuel Tribal Gaming Commission has reviewed the proposal from the perspective of regulators. After reviewing the proposal, we have concluded that a majority of the burden will be placed on the testing labs to determine what machines are considered class II; therefore, our comments have been limited to our role as regulatory body which excludes issues dealing with the technology, playability, and legal precedents.

Regulation

CFR §546.9(a) "An Indian tribe or a supplier, manufacture, of game developer sponsored by a tribe wishing to have games and associated "electronic, computer, or other technologic aids" certified as meeting the classification standards established by this part must submit the games and equipment to a testing laboratory recognized by Commission under this part."

CFR §546.9(e)(1) "The Chairman or a designee will review the certifications and accompany reports received from testing laboratories and may interpose an objection to any certification issued by a testing laboratory by notifications to the testing laboratory, the requesting party, and the sponsoring tribe within 60 days of receipt of the certification and report."

Comments

In the new proposal, we also found what seems to be a shift in the authority between the NIGC and Tribal Gaming Commission for Class II electronic aids, which appears to be a departure from the original understanding of IGRA. For instance, only the National Indian Gaming Commission has the authority to recognize a testing lab as qualified and competent to evaluate and report whether an electronic aid is class II. Furthermore, the Chairman of the National

Indian Gaming Commission or his designee has the authority to object to certification reports generated by their approved testing laboratories. This proposal might make testing labs beholden to NIGC and its approval, leaving questions as to whether testing labs can maintain objective and independent reports.

Regulation

CFR §546.4(b) "Including the electronic card but excluding any alternative display, shall fill at least ½ of the total space available for display."

Comments

From a regulatory standpoint, this regulation seems to be impractical. The manufacturing innovations for the class II electronic aids would seem to make this requirement limiting; as well as, counterproductive to its purpose. The wide array of video screen sizes could put regulators in an indefensible position of denying machine with larger bingo card display while granting approval for smaller displayed cards. For example, one manufacture would be denied for displaying a bingo card in a 5x4 format for not using the half of a large video screen; in contrast, another manufacture displaying the bingo card on a 2x2 video screen using the full screen would be permitted. Therefore, regulators would be forced to deny the first manufacture even though the card size would be more visible than the second manufacture who meets the minimum requirement. It would seem that the purpose of this regulation would be to ensure adequate screen space is devoted to the display of bingo cards. However, the unintended consequences of this regulation might have manufactures limiting or using separate displays for bingo card in order to meet this requirement. Instead of encouraging an innovative approach for displaying bingo cards, the regulation might instead limit card size to the minimum.

We appreciate the opportunity afforded by the NIGC to comment on the proposed changes and thank you for reviewing the above items. If there are any questions, please feel free to contact Michael Rust.

Respectfully,



Julian Abarca, Gaming Commissioner
San Manuel Tribal Gaming Commission

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**San Manuel Band of Mission Indians
Tribal Gaming Commission
COMPLIANCE DIVISION**

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NUMBER OF PAGES: 3
(INCLUDING COVER SHEET)

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SENDER'S NOTES:

**COMMENTS ON ELECTRONIC OR ELECTROMECHANICAL FACSIMILE
DEFINITION**